IAMAI Submission on TRAI Consultation Paper on Inputs for Formulation of "National Broadcasting Policy"

Established in 2004, the Internet and Mobile Association of India (IAMAI) is a not-for-profit industry body representing the digital services industry with over 550 Indian and multinational corporations as its members, which include established companies in diverse sectors of the digital ecosystem as well as start-ups. We firmly believe that India's digital industry is going to be a major driving force in the economic and social development of the country which includes job creation, innovation, contribution to the GDP, inclusion and empowerment of our citizens.

At the outset, we would like to thank the Telecom Regulatory Authority of India (TRAI) for giving stakeholders the opportunity to comment on its Consultation Paper on Inputs for Formulation of "National Broadcasting Policy" (CP). Broadcasting is the key constituent of India's dynamic Media & Entertainment (M&E) sector and holds immense potential for growth. An enabling policy framework can provide the needed incentive for the broadcasting industry to capitalise on this potential and position India as a global leader in broadcasting. The National Broadcasting Policy (NBP) can be an important tool for this growth, by bringing forth policy principles to guide the development of the sector and increase its contributions to the Indian economy.

Before we outline our recommendations and suggestions for the NBP, we would like to take this opportunity to highlight our preliminary observations and certain principles that must be kept in mind while drafting the policy.

1. **TRAI should clarify the scope of the policy and restrict it to the broadcasting segment.** [1]
    The CP on NBP extends its scope to Over-the-Top (OTT) services and other segments of the M&E landscape like gaming and music. Broadcasting refers to one-way transmission carried over the broadcasting networks, such as DTH, Cable TV, HITS etc. OTT services are not a part of the broadcasting ecosystem since they are functionally distinct from TV and radio broadcasting that involves a combination of carriage and content. TV broadcasters transmit their licensed TV channels to consumers through Distribution Platform Operators (DPOs) whereas OTT services have their own library of content which is made available to their subscribers on their respective platforms through the internet. Due to the fundamental differences between OTT services and broadcasting services, these are governed under different Acts/Rules/Guidelines and it is expected that the policy on broadcasting would address only the aspects relating to one-way broadcasting services that are provided over broadcasting networks (DTH, Cable TV, HITS etc.) and not the OTT services provided over the internet.

    The primary concern with these regulations is that they don't account for the fact that content consumption on OTTs differs primarily from other conventional sources such as broadcasting, which are based on a 'push' model. TV broadcasting is distinct from OTT streaming services on

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[1] Our member, Airtel has divergent views from the views expressed under this point.

several counts. Television is a push-based medium, meaning viewers consume content at a prescribed time and schedule as decided by the broadcaster. On the other hand, OTT services are pull-based, with consumers making informed choices about the time and type of content they want to watch from a library of available content in the privacy of their personal devices.

2. **Broadcasting content and carriage require distinct policy attention under the NBP and there is no need for a single regulator for content and carriage.**

   Broadcasters produce and package content into a licensed Satellite TV channels that DPOs carry to consumer homes using their own broadcasting networks. These are two distinct activities of the broadcasting supply chain. Policy and regulatory principles that apply to the two activities i.e., (i) installing and maintaining TV distribution (DPO) networks; and (ii) producing content to be distributed as the TV channels (licensed by MIB) on TV distribution (DPO) networks are different. Broadcasting carriage policy and regulation must solve for competition and ease of doing business to promote orderly sectoral growth and ensure quality of service and effective choice in consumer interest. These are the statutory objectives outlined in the TRAI Act, 1997. Broadcasting content policy and regulation should create incentives to produce novel and innovative content, generate IPs that add value to the Indian economy, and guarantee access to diversity and plurality of opinions.

   The 1999 Sub-Group on Convergence (the Nariman Committee) discussed the need to separate content regulation from carriage regulation in broadcasting. Sub-Group I highlighted the TRAI's capacity constraints in broadcasting regulation and noted that the nature of the market and disputes in the broadcasting sector are different from the telecom sector, and the added responsibility over broadcasting would be cumbersome for this reason. Sub-Group III opined that it is imperative to separate broadcast carriage regulation and content regulation. Currently, the separation exists with the TRAI regulating carriage, and the MIB regulating content.

   The NBP should acknowledge these distinctions rather than attempting to force-fit policy recommendations for different types of services.

   Even in countries that have a converged regulator, there is separation of carriage and content. Germany regulates broadcasting content through collaboration between 16 state media. The state media authorities collaborate on licensing and supervision, and development of private broadcasting. They are also responsible for the compliance of private TV and radio broadcasts with basic programming principles. The Federal Network Agency regulates telecommunications[2]

   Content regulation falls under the MIB and should continue to do so in order to provide guidance on all mediums as necessary, however, a sharper focus and orderly separation between content and carriage is critical. For carriage, while access technologies such as DTH/Cable are governed by the MIB, wireless and wireline broadband fall within the jurisdiction of the Department of

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[2] Joachim Grittmann and Alexander Wilhelm, 'The Technology, Media and Telecommunications Review: Germany' The Law Reviews, 6 January 2023, available at: https://thelawreviews.co.uk/title/the-technology-media-and-telecommunications-review/germany

Telecommunications (DOT). It is imperative to note that both telecom and DTH licences are granted under Section 4 of the Telegraph Act, but the DTH licence is governed by the MIB. This division leads to inconsistencies in policy approach and increased regulatory compliance costs to businesses. Thus, it is proposed that content regulation across all mediums should be under the MIB. Though one of our members RJIL has a different view, it is also proposed that licensing requirements under the DoT be consolidated, wherever required.

3. **The NBP should level down on existing regulation to reduce the burden on heavily regulated activities like TV distribution in line with 'Minimum Government' 'Maximum Governance'**
   DPOs are an essential stakeholder for broadcasting value chain as they provide carriage services, unlike OTTs which do not engage in carriage services and rely on telecom infrastructure for the same. This calls for differential treatment for both and thus these are governed under different Acts/ Rules/ Guidelines. TRAI should instead look at deregulation of the broadcasting sector including aspects like promoting pricing forbearance for DPOs and level down on heavily regulated activities. The current TRAI NTO (New Tariff Order) Framework has had the impact of regulating every miniscule aspect of the broadcasting industry, with prices going up for customers and choices of channels they could view going down. There is an urgent and immediate need to revamp the whole regulatory framework and introduce forbearance.

   Policy interventions have progressively liberalized regulatory frameworks in the interest of Ease of Doing Business. For example, the National Digital Communications Policy 2018 committed to "*remove regulatory barriers and reduce regulatory burden that hampers investments, innovation and consumer interest...".*[3]

   TRAI introduced economic regulations in the broadcasting sector to bring about effective competition in the sector. However, in its recommendations dated October 1, 2004, TRAI recommended a sunset date for all price regulations once there is sufficient competition in the market.[4] The TRAI had said:

   > *It must be emphasized that the regulation of prices as outlined above is only intended to be temporary and till such time as there is no effective competition. The best regulation of prices is done through competition. Therefore, as soon as there is evidence that effective competition exists in a particular area price regulation will be withdrawn. TRAI will conduct periodic reviews of the extent of competition and the need for price regulation in consultation with all stakeholders.*"

   We submit that the TRAI should recommend deregulation of broadcasting as the underlying principles in the NBP to limit the scope of regulation to only those aspects which cannot be addressed through market/competitive forces. The broadcasting policy ought to be based on the

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[3] 8, Preamble to the National Digital Communications Policy 2018, available at: https://dot.gov.in/sites/default/files/2018_10_29%20NDCP%202018_0.pdf
[4] TRAI Recommendations on Issues relating to Broadcasting and Distribution of TV Channels. (2004) in Para 4.43., available at: https://www.trai.gov.in/sites/default/files/01octcable%5B1%5D.pdf

principles of forbearance for all carriage in broadcast and support the self-regulation framework for all aspects of content. The regulator should only intervene in case of market failure.

4. **The NBP should not prescribe any local quota requirements on TV or OTT content producers.**

There is strong demand for local/regional content by the Indian audience. TV and OTT services have responded to the demand for Indian content with high levels of production investment, and diverse local content is widely available and accessible to consumers in India. Data on investment and availability of Indian content do not support the assertion of any market failure or the need for local content obligations.

5. **The NBP should not prescribe any public service obligations on private broadcasters or OTTs.**

Content producers respond to consumer demand for plural and diverse content and fulfils its core social objectives organically. An inorganic requirement to mandatorily allocate and invest resources towards meeting the public broadcaster's objectives diminishes creative autonomy and the ability to cater to the diverse needs of consumers. Private content producers cannot stand in for the public broadcaster, which already receives statutory funding to produce content in public interest.

Some of the objectives and issues in the CP, while worthwhile goals, are incidental to broadcasting. These include, mandates of waste reduction, role of broadcasting during disaster response and recovery, multiple broad social goals including workplace diversity and promoting certain types of content and environmental responsibility. We recommend that these goals not be the focus areas of a policy dedicated to broadcasting and the growth of the sector but can be implemented as part of other government or industry initiatives.

We have collected feedback from the relevant members and would like to put forth the following preliminary inputs/recommendations on the formulation of the National Broadcasting Policy which are outlined below.

Q.1 Stakeholders are requested to provide their inputs in framing the Preamble, Vision, Mission and Broad Objectives for the formulation of the National Broadcasting Policy (NBP).

IAMAI Recommendation

It is recommended that the NBP should be a high-level policy document, which sets out principles which regulators and other authorities can later use to develop rules and guidelines to meet their objectives within the NBP goal-framework. This is particularly important as the broadcasting sector involves diverse stakeholders operating in a rapidly changing technological environment. Prescriptive measures or strategies will prevent the NBP from being a future-proof policy that can guide the broadcasting sector through 2047 and beyond.

Preamble and Vision

To establish a long-term vision for India's broadcasting industry with a view towards positioning the country as an unmatched, globally recognised and relevant broadcasting hub.

The combined impact of the industry's direct and indirect economic contribution in the form of linkages to the vibrant Indian creative economy, to live events, to brands and to sectors like tourism, as well as its palpable social contribution in terms of dissemination of information, knowledge, and entertainment, is already without parallel.

Therefore, this Policy is envisioned as being a catalyst for strong sectoral growth reflecting the need for broadcasting to truly break-out and unleash its global potential using our talent, our markets, the adoption of new and emerging technologies, as steppingstones. Combined with potent market forces and well calibrated and agile regulation, the Indian broadcasting is unstoppable.

Mission

This policy intends to:

- Create a vibrant and resilient broadcasting sector anchored by an enabling ecosystem for content creation, that can meet the Indian citizen's diverse content preferences and receive news, reliable information, and high-quality entertainment in various languages;
- Position India as a global hub for content production, export Indian content to the world, promote India as an optimal location for content creation, and develop technical capabilities in emerging technology areas like Animation and Visual Effects to meet global requirements for skilled labour;
- Develop a globally competitive and growth-oriented broadcasting sector with enhanced ease of doing business, robust state-of-the-art infrastructure, seamless market entry, world-class distribution technology, enhanced content security, and a cooperative and collaborative ecosystem.

Q2. There exist data gaps in ascertaining contribution towards economy, revenue generation, employment generation, subscription figures etc. in the broadcasting sector which relies heavily on industry studies to carry out research and estimates. What should be the parameters, targets and institutional framework for measurement? Provide your comments with detailed justification. Also provide the indicative metrics used for calculating the targeted figures, if possible.

<u>**IAMAI Recommendation**</u>

It is recommended that the following aspects must be taken into consideration for ascertaining contribution towards economy, revenue generation, employment generation, subscription figures etc. in the broadcasting sector:

1. Commission economic research to estimate the sector's current and potential contribution to the GDP;

2. Quantify intangible contributions of broadcasting to the information and knowledge economy via qualitative methods;

3. Establish future targets for TV and radio, based on current estimates, in consultation with industry stakeholders and experts.

Q3. Please suggest the strategies to be adopted by the Government and industry for propelling the growth of broadcasting sector w.r.t. the following:

i. Provisioning of affordable television services in 'TV Dark' households

IAMAI Recommendation

To tackle the challenge of television dark households, numbering at 100 million homes, a holistic approach aligned with the overarching goal of achieving nationwide connectivity is proposed. The Policy should enable regulatory forbearance for the broadcasting sector, allowing private DPOs to innovate and compete with other services. DD Free dish should be brought under the same regulatory ambit. This would help in creating a conducive environment for all stakeholders leading to more competitive and affordable services to the customers that would ultimately help in connecting the TV dark households as well.

This strategic initiative not only aims to foster a more inclusive television ecosystem in underserved regions but also seeks to rejuvenate the private DPO industry within three to five years. Enabling private entities to cater to these segments, would envision a future where television access is more widespread, bridging coverage gaps and enriching the viewing experience for all.

In addition to the above, the following strategies will also foster a more inclusive television landscape:

- DPOs should voluntarily explore introducing affordable Free-To-Air (FTA) package options to make television services more accessible to a wider demographic.
- Pricing forbearance should be given to stakeholders. This will help introduce market based tailored pricing for rural markets to help narrow the accessibility gap in these regions.
- Encouraging the reactivation of inactive set-top boxes through incentive schemes can also help expanding television access. By leveraging dormant resources, the reach of television services without significant infrastructure investments can be effectively extended.

ii. Augmenting R&D capabilities and promoting indigenous manufacturing of broadcasting equipment

IAMAI Recommendation

Following are the recommendations for augmenting R&D capabilities and promoting indigenous manufacturing of broadcasting equipment:

1. Provide infrastructure status to broadcasting distribution platforms and services to accelerate infrastructural convergence in consonance with the NDCP 2018;
2. Explore production linked incentives for manufacturing of high-value broadcasting equipment in consonance with the goals of the National Policy on Electronics;
3. Identify underpenetrated areas to expand connectivity and access to broadcast channels, via fiscal support;
4. Engage with research institutions to explore emerging broadcast technology and their use-cases, and encourage research on technologies for better network management and quality of service;
5. Establish Centres of Entrepreneurship (COEs) and technology incubators focusing on AVGC related technology at Software Technology Parks of India (STPI);
6. Enable sandbox testing of emerging broadcast technologies.

iii.   **Employment generation with emphasis on skill development;**
       IAMAI Recommendation

Following are the recommendations for employment generation:
1. Under the New Education Policy (NEP), an all-India curriculum needs to be introduced to cover various aspects of the M&E sector (such as content creation, content protection, content delivery, technological development and management).
2. Engage with relevant skill councils to continually encourage the addition and review of Qualification Packs (QPs) and National Occupational Standards (NOS), and aim to harmonise these with international standards in areas such as digital skilling in keeping with the New Delhi Declaration of the G20;
3. Establish upskilling programmes with reputed educational and vocational institutions and help establish National Centres for excellence in AV technologies and production techniques in such institutions;
4. Identify public institutes like the SRFTI and FTII and partner with private institutes to set up specialized courses for training professionals working in emerging areas in the TV, distribution, and radio industries.

Q.4 What other policy and regulatory measures should be adopted in the policy for creation and expansion of quality Indian content to make India the 'Global Content Hub'? Further, suggest how to extend support to local talents and content developers in terms of training, infrastructure and incentives. Provide your comments with detailed explanation.

IAMAI Recommendation
Consumers have easy access to regional content on a number of regional language TV channels, and other services, which cater to niche, regional audiences. On TV broadcast, only 1% viewership

is attributable to English. 56% of Indian TV viewership is in regional languages and 43% in Hindi.[5] Even the market share of regional OTT services increased from 47% in 2021 to 52% in 2023.[6]

Market demand and healthy competition have incentivised content producers to differentiate their offering and create many regional TV channels. Other services have also facilitated access to content in diverse local and regional languages. Local content quotas are an inorganic market intervention that would diminish the unique selling point regional content services offer.

Further, technological developments like the availability of subtitles and audio in various Indian languages ensures that Indian local and regional content is easily accessible to the global consumers regardless of the language that it is produced in, and likewise for global content to the local/regional Indian consumers. There is no rationale case for introducing local content quotas in an already healthy growth and considerably competitive market spanning the various languages and culture of India.

Following strategies may be taken into consideration in order to make India the 'Global Content Hub':

1. Explore the prospects of setting up content clusters or content export zones through which fiscal and infrastructural benefits can be passed on to the creative economy;
2. Ensure regulatory and policy stability that promotes creative freedom;
3. Offer tax subsidies and other incentives to regional, national, and foreign content producers for local production in India;
4. Position tourist spots and locations as ideal locations for production and create linkages between state-level tourism and film policies;
5. Work with state governments to create effective single-window processes for clearance of production related permissions and incentives for content production;
6. Expand the scope of bilateral agreements with foreign countries to facilitate co-production agreements for production and film festivals;
7. Support the review and updating process of the National IPR Policy, particularly with a view to identify modernisation requirements for the IP regime to keep pace with technological changes;
8. Support research on technological standards for encryption and reliable communication in collaboration with the BIS and other relevant standard-setting bodies.

Q5. Suggest the measures to promote the uplinking of television channels owned by foreign companies from India, which is now permitted by the Government to make India an 'Uplinking Hub'.

No comments

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[5] Ibid.

[6] FICCI-EY, #Reinvent India's media & entertainment sector is innovating for the future (2024), available at: https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/media-and-entertainment/2024/ey-in-india-s-media-entertainment-sector-is-innovating-for-the-future-03-2024-v1.pdf

Q6. What broad guiding principles, measures and strategies should be considered in the NBP to strengthen India's public service broadcaster (i.e. Prasar Bharati) to promote quality content creation, dissemination of DD and AIR channels and maximizing its global outreach? Also suggest, what support and measures should be provided for the proliferation of television and radio broadcasting services provided by the public service broadcaster in fulfilment of its mandate?

The NBP should not prescribe any public service obligations on private broadcasters or OTTs. Public service broadcasting is the primary and exclusive remit of the public broadcaster, and Prasar Bharti-owned Doordarshan channels and All India Radio (AIR) should take the lead in public service broadcasting, achievement of social goals, and environmental responsibility. Section 12 of the Prasar Bharti Act lists the functions of the public broadcaster, and guiding objectives that it should follow. Social goals and other public related objectives in broadcasting fall squarely in the public broadcaster's domain, for which the lead and responsibility/ accountability ought to be shouldered by the public broadcaster.

The CP proposes an obligation on registered OTT services to carry DD channels to promote Indian content. MIB has also included this obligation under Section 6 (1) of the publicly available Draft Broadcasting Services (Regulation) Bill. Regulatory requirements to mandatorily allocate and invest resources for meeting public broadcasting objectives impact creative autonomy and the ability to cater to the diverse needs of OTT consumers. Examples cited in the CP like Prasar Bharati's MoU to carry DD channels in foreign jurisdictions is an example of a voluntary licensing agreement. Similarly, any agreement between private services and the public broadcaster should follow negotiations and licensing on fair, reasonable, and non-discriminatory terms as is common practice around the world.

The regulatory imbalance between Public Service Broadcaster and Private DPOs adversely affects the business viability of Private DPOs.

<u>**IAMAI Recommendation**</u>
We recommend the following strategies to strengthen India's public service broadcaster:

1. Ensure no overlap between Public Service Broadcasting and Commercial Broadcasting Services;
2. Enable Doordarshan and All India Radio (AIR) to enhance and expand public interest programming in regional languages and across new mediums;
3. Bolster content production on themes of national importance listed in Section 12 of the Prasar Bharati Act and disseminate through TV and radio;
4. Establish a standard operating protocol for production and dissemination of content during natural disaster emergencies;
5. Explore more public-private partnerships and enable new modes of market-based partnership for content sourcing and creation on themes of national importance and engender diversity of views;

6. Further decentralise content production by the public broadcaster to develop engaging programmes in regional languages for local audiences, and review regional content creation performance regularly;

7. Strengthen transmission and reception infrastructure at the border and remote areas;

8. Explore the prospects of new monetisation models including via content development funds, subscription fees for niche programming and other such methods, via a high-level committee;

9. Create a Standard Operating Procedure for commissioning and acquiring content for broadcasters to engender greater certainty in commercial processes and give primacy to intellectual property of creators;

10. Continue to expand international outreach through agreements with national broadcasters in other countries;

11. Enable Community Radio Stations ("CRS") to source news and current affairs from AIR and translate and transmit in local languages and dialects to further facilitate its dissemination.

Q7. What policy measures and regulatory aspects should be adopted in the NBP to nudge the growth of Indian regional content through OTT platforms?

<u>**IAMAI Recommendation**</u>

It is suggested that the NBP should not prescribe content quotas on OTT services. OTT services tailor their production strategies to meet consumer demand, and there exists already a strong demand for local/Indian regional content by the Indian audience. OTT services have responded to the demand for Indian content with high levels of production investment, and content is widely available and accessible to consumers in India.

Thus, data on investment and availability of Indian content on OTT platforms does not support the assertion of any market failure or the need for local content obligations.

- OTT services meet the demand for availability of multilingual content by providing subtitles and audio in various Indian languages. This ensures that global content is easily accessible to Indian consumers regardless of the language that it is produced in.

- The market share of regional OTT services increased from 47% in 2021 to 52% in 2023.[7] Consumers have easy access to regional content on services which cater to niche regional audiences.

- Increased investment in local content is an organic market response to competition for eyeballs. This is because catering to consumer preferences is key and offering unrelatable content can lead to a loss of subscribers.

- Complete creative control has allowed OTT streaming platforms to offer diverse content slates that cater to varying consumer preferences.

- Mandatory impositions to create certain kinds of content (local content, in the NBP's case), can endanger this creative freedom and stifle growth. A negative impact on growth can have a direct effect on jobs, development of hardware and software capacity, and other contributions to the Indian economy.

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[7] https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/media-and-entertainment/2024/ey-in-india-s-media-entertainment-sector-is-innovating-for-the-future-03-2024-v1.pdf

Quota requirements do not produce the intended effect and harms India's prospects of becoming a global content hub. Protectionist policies like quotas can have the following downsides:

- Quotas can deter the development of the local industry, since they prevent open and fair competition.[8] A lack of competition reduces incentives to innovate and improve efficiency, leading to stagnation. It can also reduce product variety and quality.[9] Frontier Economics' analysis indicates that policies like quotas lead to a reduction in the export of audio-visual products, with countries that have greater policy restrictions tending to have lower levels of investment in content.

- Organic market dynamics and consumer demand should ideally drive investment in local content, OTT services are naturally motivated to align their content offerings with subscriber preferences. If a subscriber is unhappy with the content mix (for example, the balance between local content and international content) offered on a service, they will simply unsubscribe. Therefore, to avoid churn, the volume of local content offered on an over the top service should be driven by consumer preferences and market forces rather than regulatory mandate.

- Moreover, policy formulation should be underpinned by a comprehensive analysis of industry requirements and issues, evaluating the potential impact of proposed regulations on all market participants. Before advancing legislative measures, conducting an impartial impact assessment is imperative. This approach ensures proposals are evidence-based, averting inadvertent repercussions that financial obligations may entail.

- Research has found that protectionist policies such as content quotas can work against the goal of increasing investment. Policies that shield local companies from international competition can result in local content industries that are less innovative and less able to produce the kind of high-quality content that is in demand internationally.

- Research has also found that the more stringent the protectionist policies, this may lead to reductions in exports of audio-visual products. Thus, countries that have greater policy restrictions tend to have lower levels of investment in content.

- Quotas can distort market dynamics by artificially limiting supply, preventing markets from developing naturally. For example, the Korean government abolished a screen quota after it left cinema halls empty due to lack of available films.[10]

Q8. What new strategies and measures should be envisaged in the policy for the film industry to enhance audience engagement, infrastructure development, upskilling artists, reduce piracy, increase foreign direct investment or any other aspect? What steps are required to make India a preferred filming destination? Provide your comments with detailed justification.

No comments

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[8] https://www.koreatimes.co.kr/www/opinion/2024/04/638_268177.html

[9] https://www.mpa-apac.org/2021/10/local-content-production-and-sensible-regulation-new-studies-demonstrate-the-close-relationship/

[10] https://www.mpa-apac.org/2021/10/local-content-production-and-sensible-regulation-new-studies-demonstrate-the-close-relationship/

Q9. Online gaming being a rising sector holds potential for contributing to economy, what policy and regulatory aspects should be adopted for the orderly growth of online gaming in India? Further, suggest measures to support local game developers to compete and grow. Also suggest safeguards to protect general public (especially underage players) from negative and psychological side effects, while promoting healthy gaming.

At the outset, we would like to highlight certain key points to be taken into consideration while drafting National Broadcasting Policy - 2024.

Key Considerations:

- MeitY is the nodal ministry for Online Gaming

  The subject matter of "online gaming" has been allocated to the Ministry of Electronics and Information Technology (**MeitY**) by virtue of amendments to the Government of India (Allocation of Business Rules) 1961 ('**AoBR**'). In furtherance to this, MeitY issued amendments to Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (**IT Rules**) for regulating online gaming including online real money gaming, however while notified, the rules are yet to be operationalised.

- Online gaming is at the core of the Animation, Visual, Gaming and Comics Sector

  The Ministry of Information and Broadcasting in their Draft Model State Policy for Animation, Visual, Gaming and Comics (**AVGC**) sector highlighted that gaming industry is at the core of the AVGC sector and drives growth across its entire ecosystem.[11] Therefore, although gaming contributes to the expansion of the broader Media and Entertainment sector, it stands as a distinct category as part of the AVGC sector. As per an EY report[12], the online real money gaming sub-segment constitutes a substantial part of the online gaming ecosystem, comprising 82.8% of the market share in FY23.

- Involvement of money does not change the nature of an online game

  While Para 2.81 of the Consultation Paper highlights the difference between online gaming and online gambling, it important to note that online games can be played with or without involving money. The IT Rules defines online real money game as

  > *"'online real money game' means an online game where a user makes a deposit in cash or kind with the expectation of earning winnings on that deposit."*

It is imperative to underscore that the presence of money does not fundamentally change the nature of the game or the elements of skill and/or chance involved in it. Rather, the decisive factor in determining whether a game constitutes gaming or gambling lies in the predominance of skill over chance. Thus, while there is an element of chance in each game, what is critical is whether in a game the exercise of skill can control and predominate the 'chance' element involved, such that the better skilled would prevail more often than not. This criteria serves as the litmus test for distinguishing between the two.

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[11] https://mib.gov.in/sites/default/files/Annexure%20D_Draft%20Model%20State%20Policy%20for%20AVGC-XR%20Sector.pdf

[12] https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/media-and-entertainment/2023/12/ey-new-frontier-online-gaming-report.pdf

- Online real money gaming is solely accessible to adults

  Within online real money gaming, there are various gaming intermediaries offering different formats of gameplay. It's crucial to emphasize that online real money games are strictly restricted to adults, and all intermediaries involved in such gaming universally implement age gating practices. Through the implementation of these measures, online gaming intermediaries prioritize consumer protection and ensure compliance with regulatory standards in the online gaming ecosystem.

- Framework under the IT Rules

  As noted in Para 2.84, the IT Rules are aimed at addressing the challenges of catalyzing and expanding online gaming innovation and at the same time protecting citizens from illegal betting and wagering online. However, it is important to highlight that the Rules provide for a comprehensive set of responsible gaming measures that an online gaming intermediary shall adopt while offering its services in India. Further, the IT Rules obligate Self-Regulatory Bodies to develop a framework addressing issues pertaining to, *inter alia*, user harm, addiction, and financial loss.

- Impact of Online Gaming on the Digital Economy

  The Indian gaming market is estimated to have reached a market size of INR 16,428 crore in FY23 and is expected to reach a market size of INR 33,243 crore in FY28, showing a 15% CAGR. The sector has also attracted investments, from global and Indian sources, worth INR 22,931 crore between FY20 and FY24. Furthermore, gaming revenues contribute substantially to the exchequer, adding to the government's coffers and supporting various developmental initiatives. Between FY24 and FY28, the sector will contribute INR 6,800 crore as direct tax revenue and INR 76,000 crore as indirect tax revenue. The potential of the sector was highlighted by Prime Minister Modi, with the vision to position India as a leading global hub for game developers and gaming services, leveraging the immense opportunities presented by this burgeoning industry.

  The Indian gaming community is estimated to comprise about 42.5Cr gamers and the sector directly and indirectly employs 1 Lakh individuals with the prospect of expanding to 2.5 Lakh job opportunities by 2025. However, despite its substantial user base, India currently accounts for only about 1% of the global gaming market, highlighting the untapped potential awaiting exploration. To fully unlock the sector's true potential and attract investments, a uniform and stable regulatory framework is imperative. Regulatory clarity is vital to instil confidence among investors and stakeholders, ensuring a conducive environment for sustainable growth and innovation within the industry.

1. **Policy and regulatory support for the growth of online gaming**

   The Central Government is proactively working towards establishing a safe, trusted and accountable framework for the online gaming ecosystem by driving policy and regulation through multiple ministries and regulatory bodies.

a. Ministry of Electronics and Information Technology

Following the allocation of online gaming to MeitY, the ministry issued amendments to the IT Rules, whereby a regulatory framework for Online Gaming Intermediaries ('**OGI**') was introduced.

The regulatory framework consists of a three-tiered approach:

a. Level 1: Self-compliance, due diligence, and grievance redressal by the online gaming intermediary itself;

b. Level 2: Self-Regulatory Bodies ('SRBs') notified by MeitY to certify and verify permissibility of online real money games that do not amount to wagering on any outcome i.e. are not in the nature of betting and gambling;

c. Level 3: MeitY and Grievance Appellate Committee, to enable appeals against the decision of Grievance Officer of SRB.

Additionally, SRBs are mandated to introduce a framework aimed at safeguarding users from the risks of addiction, financial loss, and other detrimental effects associated with online gaming. However, as stated, SRBs are yet to be notified by the Ministry, indicating that this aspect of the regulatory framework is still in progress.

b. Ministry of Home Affairs

Under Section 69A of the IT Act, the Central Government is empowered to direct any agency of the Government or intermediary to block for access by the public any information generated, transmitted, received, stored or hosted in any computer resource if it considers it necessary to do so in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order. MeitY on recommendations from the Ministry of Home Affairs ('MHA') has exercised its powers under Section 69A to block more than 174 illegal betting, gambling apps.

c. Ministry of Information and Broadcasting

The Ministry of Information and Broadcasting has issued multiple advisories[13] to newspapers, digital news publishers, and private satellite TV channels, urging them to refrain from publishing advertisements promoting online betting and gambling platforms.

d. Ministry of Consumer Affairs

The Ministry of Consumer Affairs also recently issued an advisory[14] stating that any advertisement or endorsement, whether directly or indirectly, of activities which are otherwise prohibited by law, including but not limited to betting or gambling, through advertisements or promotions, shall be subject to rigorous scrutiny.

e. Ministry of Finance

The Central Government, through The Finance Act, 2023, introduced amendments to the Income Tax Act, 1961, to establish distinct treatment for online gaming separate from that of

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[13] https://mib.gov.in/sites/default/files/Advisory%20dated%2025.08.2023%20with%20enclosures.pdf;
https://mib.gov.in/sites/default/files/Advisory%20dated%2021.03.2021%20%281%29.pdf;
https://mib.gov.in/sites/default/files/06.04.2023%20Advisory%20on%20Betting%20Advertisements.pdf;
https://mib.gov.in/sites/default/files/Advisory%20on%20online%20betting%20advertisements%2013.06.2022.pdf
[14] https://mib.gov.in/sites/default/files/Advisory%20dated%2021.03.2021%20%281%29.pdf

gambling and betting. This includes provisions for the deduction of Tax Deducted at Source (TDS) and Income Tax on winnings from online gaming. The Ministry of Finance has recently also issued an amendment to the GST Law effective 1st October, 2023 wherein all online gaming is liable to pay GST @28% on face value of every deposit. These amendments signify the government's commitment to providing a structured and regulated environment for the online gaming industry while ensuring appropriate taxation procedures are implemented.

f. Advertising Standards Council of India (ASCI)

ASCI issued Guidelines for 'Online Gaming for Real Money Winnings' push for inclusion, in advertisements for online real money games, of appropriate and prominent disclaimers which make consumers aware of the financial risks involved in such games. While the ASCI is admittedly a self-regulatory body, advertisements for online real money games which do not comply with ASCI's guidelines may, pursuant to ASCI's recommendations, nonetheless attract rigorous scrutiny from the MIB as well.

IAMAI Recommendation

Given the existing comprehensive framework for regulations, it is imperative to ensure balanced growth while prioritizing user protection. Therefore, we propose that the Government of India through MeitY considers the following interventions:

a. It is essential to operationalise the amended IT Rules to effectively govern, administer, and regulate the online gaming industry in India. These rules have been drafted following extensive stakeholder consultations, incorporating principles aimed at fostering an open, safe, transparent, and accountable online gaming environment. In case there are overarching concerns regarding the regulatory structure, it would be advisable to promptly devise necessary amendments to resolve them and obviate any regulatory ambiguity. In addition to the existing three-tier regulatory structure outlined in the IT Rules, MeitY could contemplate the adoption of the following regulatory models to further fortify the regulatory framework, or any other appropriate framework as MeitY may deem fit:

i. **Three-Tier Regulatory Framework akin to OCCPs**: Similar to the regulatory framework for Over-The-Top (OTT) platforms introduced in Part III of the IT Rules, implementing a three-tier regulatory structure could provide enhanced oversight and accountability within the online gaming industry.

ii. **Introduction of a Registration Mechanism**: Implementing a registration mechanism wherein all online gaming intermediaries are required to register with MeitY could ensure that only legitimate platforms operate within India. This would enhance transparency, accountability, and consumer protection within the online gaming ecosystem.

iii. **Alternative Models for consideration:** MeitY may consider alternative models as it deems appropriate with due regard to the evolving nature of the sector with innovative game formats and business models. To this end, any such framework should strive to strike a balance between regulatory oversight and industry growth.

Furthermore, to ensure a resilient regulatory framework, MeitY should conduct periodic reviews of the IT Rules' effectiveness and introduce additional safeguards as needed.

b. Despite the issuance of various advisories by the Ministry of Information and Broadcasting and the Ministry of Consumer Affairs to limit the advertisement and endorsements of betting and gambling platforms, it is imperative to formalize these advisories into enforceable regulations either under IT Rules or any other appropriate legislative framework and to take stringent and consistent action against such illicit platforms.

2. Promoting indigenous game development in India

Gaming serves as a powerful medium to showcase Indian culture, art, and stories, offering an immersive platform for preserving heritage and sharing it with the world in contemporary formats. By celebrating Indian characters and narratives, gaming can transcend borders and increase India's global presence while boosting exports and creating a thriving global market for indigenous gaming content. Besides its potential for development of indigenous content and IP, as highlighted earlier, it can also contribute to a nation's GDP and economic growth through employment generation, investments, and revenue to the exchequer.

The Ministry of Information & Broadcasting (MIB) has initiated various efforts, including the draft national promotion policy for Animation, Visual Effects, Gaming, and Comics (AVGC), to position India as a global gaming and AVGC hub. Many states (Karnataka[15], Kerala[16]) have also introduced or are developing AVGC policies to support local game development. These initiatives, along with the proposed establishment of Centres of Excellence (CoEs) and the creation of a nodal agency under MIB, underscore the government's commitment to fostering the growth of the gaming industry.

IAMAI Recommendation

Notification of the National AVGC Policy: It is imperative to finalize and notify the national AVGC policy promptly, while ensuring dedicated oversight and coordination between state and central governments to facilitate holistic development and regulation of online gaming in India. Facilitating greater synergy between state and central governments is essential to ensure holistic development and regulation of online games in India. By aligning policies, sharing best practices, and coordinating efforts, both levels of government can work collaboratively to nurture a vibrant and sustainable gaming ecosystem.

3. Safeguards to protect the general public

As highlighted above, the participation in online real money gaming is strictly limited to adults, and industry operators have universally implemented age gating practices, ensuring that only individuals aged 18 and above have access to online real money gaming platforms.

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[15] https://itbtst.karnataka.gov.in/storage/pdf-files/DraftAVGCPolicy.pdf

[16] https://avgcpolicy.startupmission.in/

Further, IT Rules prescribe a comprehensive set of responsible gaming measures, including restrictions on hosting and advertising for games involving wagering or betting. Some of the other obligations imposed on online gaming intermediaries under IT Rules are as follows:

a. Online gaming intermediaries are required to prominently display a mark of registration on all real money games approved by the Self-Regulatory Bodies (SRBs);

b. Similar to entities regulated by the Reserve Bank of India (RBI), online gaming intermediaries must adhere to Know Your Customer (KYC) requirements to verify the identity of users;

c. OGIs are mandated to provide users with comprehensive information regarding online games, potential financial risks, KYC requirements, and the registration process with SRBs, all of which must be outlined in the terms and conditions;

d. Online gaming intermediaries are obligated to appoint a Grievance Officer, Chief Compliance Officer, and Nodal Officer, all of whom must be employees of the organization and residents of India;

e. Online gaming intermediaries are responsible for ensuring timely grievance redressal and publishing monthly compliance reports;

f. Online gaming intermediaries are prohibited from extending financial services, such as credit, and from facilitating financing offered by third parties.

In the interim period until MeitY appoints SRBs, industry bodies including AIGF, EGF, FIFS and IAMAI have proactively collaborated to endorse a Voluntary Code of Ethics for Online Gaming Intermediaries ensuring consistent adherence to responsible gaming standards. Members of these associations are expected to comply with the code, which includes provisions for responsible gaming practices, protection of minors, fair gaming policies, financial safeguards, responsible advertising, and other measures aimed at ensuring the delivery of safe, secure, and reliable gaming services. This voluntary code serves as a proactive measure to uphold ethical standards within the online gaming industry, promoting consumer trust and confidence while awaiting formal regulatory oversight.

IAMAI Recommendation

Thus, from the above, it is apparent that safeguards to protect the general public are already in place and industry has also opted for voluntary initiatives to ensure consumer protection. At present, the primary requirement is the enforcement of the IT Rules, which will facilitate the effective implementation of user safety principles while fostering the orderly growth of the industry.

Q10. What further steps and initiatives should be adopted by the Central and State Governments and the industry for the growth of animation, VFX and post-production segment? Provide your comments with detailed reasoning and justification.

IAMAI Recommendation

It is recommended that the Governments should review co-production treaties with other countries and other film production incentives to include AVGC-XR production.

Q11. What strategies and measures should be included in the policy for the music segment to enhance infrastructure development, upskilling artists, financial certainty and to resolve other challenges being faced by artists? What steps should be taken to encourage the global promotion of Indian music and artists? Please provide your comments with detailed reasoning.

It is evident that the Indian music industry is going from strength to strength. To quote "Indian songs are amongst the most popular in the world - they hold seven spots on the Top Ten YouTube Global Charts for 2022. In addition, they are the most streamed artists on YouTube in seven of our neighbouring countries, a testimony to the soft power of Indian content".[17] Other industry reports state that the Indian music industry was valued at around 24 billion Indian rupees at the end of 2023 and is estimated to reach 37 billion rupees by the end of 2026 and that overall, the sector was estimated to grow at a compound annual rate of 14.7 percent in the stated time frame.

The Hindi-language music's market share of the world's Top 10,000 streaming tracks (on-demand streams, inclusive of audio + video) more than doubled between 2021 (3.8%) and 2023 (7.8%). In the last five years, on streaming platforms such as Spotify fans have gone from streaming nearly 70% international music, to streaming more than 70% India music today and the consumption of Indian music has skyrocketed over 2000% worldwide. It is estimated that India could become the world's largest music streaming territory by volume this year.

IAMAI Recommendation

Thus, it is recommended that for Indian artists to fully benefit from this rapidly growing industry, National Skill Development Corporation may be encouraged to launch new technical courses and formal training opportunities to support the growth of the industry.

Q12. What measures and strategies should be included in the National Broadcasting Policy to encourage expansion and ensure orderly growth and sustainability of FM Radio Stations and Community Radio Stations in the various cities of country including hilly and border areas? In what ways the policy can facilitate the integration of digital radio technologies into the existing FM radio infrastructure to improve audio quality, functionality and spectrum efficiency?

No comments

Q13. With the continuous advancement of technologies and convergence of the telecom, information technology and broadcasting sectors, what policy and regulatory measures are required, beyond the existing ones, to facilitate the growth of the broadcasting sector with ease of compliance? Elaborate your comments with proper reasoning and justifications to the following issues:

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[17] https://www.ey.com/en_in/media-entertainment/the-music-economy-creator-the-rise-of-music-publishing-in-india

i. **To enable healthy and competitive environment amongst the existing and emerging services and ensuring parity among comparable distribution mediums, while being technology neutral.[18]**

ii. **To allow and encourage infrastructure sharing among the players of broadcasting and that with the telecommunication sector.**

iii. **Any other suggestion for policy and regulatory framework.**

With the continuous advancement of technologies and convergence of the telecom, information technology and broadcasting sectors, the following factors should be considered:

- The NBP should acknowledge the Distinction between the Different Services
  Broadcasting is a one-way service provided through the broadcasting networks, such as Cable TV, DTH, HITS etc. On the other hand, OTT content services are two-way services provided over the Internet. In broadcasting services, service providers carry licensed TV channel over the network of DPO whereas OTT content services involve distribution of content over the Internet. This is supported by a recent decision of the Telecom Disputes and Settlement Appellate Tribunal (TDSAT) which held that an OTT service is not a TV channel based on several distinctions between the two, and the separate laws that govern either service. [19]

  The Ministry of Electronics and Information Technology (MeitY) has administrative jurisdiction over both intermediaries and Online Curated Content Providers (OCCPs) and regulates them under the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Similarly, the Department of Telecommunications oversees regulation of the telecom sector through the Indian Telegraph Act, 1885 and other legislation.

- The NBP should acknowledge that OTT platforms are not "broadcasting networks"
  TV broadcasters rely on satellite and need broadcasting network operators (BNOs) to transmit content, but OTT services do not. OTT platforms do not have control over how the network infrastructure is developed or deployed. OTTs operate on the "application layer" which is distinct from the "network layer" of the internet. Services on the application layer function atop the network layer and use networks to transfer data. OTTs facilitate the exchange of information over the internet.

- The NBP should acknowledge that push services and pull services, are treated distinctly the world over owing to fundamental differences.
  The primary concern with CP on NBP is that it doesn't account for the fact that content consumption on OTTs differs primarily from other conventional sources such as broadcasting, which are based on a 'push' model.

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[18] Our member, Airtel has divergent views from the views expressed in the response to this section.

[19] All India Digital Cable Federation vs. Star India Pvt. Ltd., Broadcasting Petition/217/2023, available at: https://tdsat.gov.in/Delhi/services/daily_order_view.php?filing_no=NDM2MzM=

TV broadcasting is distinct from OTT streaming services on several counts. Television is a *push-based medium*, meaning viewers consume content at a prescribed time and schedule as decided by the broadcaster. On the other hand, OTT services are *pull-based, with consumers making informed choices about* the time and type of content they want to watch from a library of available content in the privacy of their personal devices.

- The NBP must clarify the distinction between content and carriage
  The NBP should acknowledge that providing carriage/distribution services and content/programming services are distinct activities and require different regulatory approaches. For example, traditional broadcast network operators are tasked with the implementation of age-based access control mechanisms, but they receive encrypted signals that they cannot decrypt, classify, and implement access control for. It is global practice to separate the regulation of content from the regulation of carriage.

  The premise for distinction and separation of the regulatory frameworks for content and carriage still holds in today's digitalised carriage eco-system. Moreover, the principles for regulating content across different platforms are different for theatres, TV, OTT and intermediaries because of fundamental differences in how content is consumed via these platforms. For example, Television, is relatively private and characterised co-viewing with schedule programs (push content) and hence governed by the Cable Television Networks Regulation Act and Rules. OTT on the other hand, is a characterised with private viewing in India with consumers making informed choice (pull content) about every content that they watch, and hence content on OTT is governed by Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules). The viewer's ability to exercise choice in how they view the content, or indeed whether they view it at all, factors into the potential risks of providing content via a particular platform.

- The NBP Should Outline Policy Principles and Avoid Prescriptive Measures
  We recommend that the NBP should be a high-level policy document, which sets out principles and that regulators and other authorities can later use to develop rules and guidelines to meet their objectives within the NBP goal-framework. This is particularly important as the broadcasting sector involves diverse stakeholders operating in a rapidly changing technological environment. Prescriptive measures or strategies will prevent the NBP from being a future-proof policy that can guide the broadcasting sector through 2047 and beyond. For example, specific measures related to grievance redressal mechanisms need not be stipulated in the policy. The NBP should limit itself to outlining the objective behind including grievance redressal as part of a self-regulatory framework aligned with India's constitutional principles.

  Industry stakeholders had highlighted these issues in the pre-consultation and requested the regulator to exclude OTT services from the scope of the NBP, but the current CP includes questions on OTT services. These is an untenable position because:[20]

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[20] Our member, Airtel has divergent views from the views expressed under this paragraph.

- TV broadcasting and OTT services are distinct from each other and thus, are regulated under different Acts/Guidelines/Rules.
- TV broadcasting and OTT markets are at different stages of development. OTT is a sunrise sector with potential for growth and in a position to contribute positively towards India's digital economy. It needs a growth-oriented forward-looking policy approach. On the other hand, TV broadcasting requires an action plan for resilience during a secular downturn. These are two fundamentally different imperatives.
- Infrastructure pipes for delivery of broadcasting and OTT services are distinct and require specialised policy / regulatory oversight.
- For OTT services, the user decides what content to consume and therefore is a 'pull' model of dissemination. There is also the factor of interactivity between the subscriber and the OTT service. This means that the service caters to the subscriber's myriad choices of actions at each time like requesting (or "pulling") programmes at the time of his choosing, time shifting / toggling within a programme to move the programme forward or backward. Such interactivity continues for the entire duration of the subscriber's engagement. In the case of traditional broadcast technologies, linear time dependent licensed TV channels are "pushed" to the subscriber without any ability for interactivity on a broadcasting network which is completely controlled from end to end by the distribution platform. According to a market study conducted by the Competition Commission of India in 2022 on the film Distribution Chain in India, television, and OTT services each serve differing needs for consumers.
- A survey by BIF and CUTS International found that 38 per cent of respondent consumers watch TV as a family bonding exercise while users view OTT services on their smartphones. OTT content is on-demand and not intended for public exhibition.[21]
- Under the Allocation of Business Rules, 1961, the Ministry of Electronics and Information Technology ("MeitY") administers the Information Technology Act, 2000 and other policy matters and laws related to information technology, the internet, and services they enable, including OTT services and gaming.[22] MeitY already has a vision, policies on software and electronics manufacturing, and has set a target of unlocking 1 trillion-dollar value from India's digital economy by 2025.[23] There is no need for separate policy impetus under the NBP.

However, a sharper focus and orderly separation between content and carriage is critical. Content regulation falls under the MIB and should continue to do so to provide guidance on all mediums as necessary. For carriage, while access technologies such as DTH/Cable are governed by the MIB, wireless and wireline broadband fall within the jurisdiction of the Department of Telecommunications (DOT). It is imperative to note that both telecom and DTH licences are granted under Section 4 of the Telegraph Act, but the DTH licence is governed by the MIB. It is proposed that content regulation across all mediums should be under the MIB. Though one of our members RJIL has a different view, it is also proposed that licensing requirements under the DoT be consolidated, wherever required.

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[21] Tansimul Hassan, 'Digital Divide: Is Big Brother Trying to Control the Booming Internet Space?' The Leaflet, 5 March 2021, available at: https://theleaflet.in/digital-divide-is-big-brother-trying-to-control-the-booming-internet-space/
[22] Allocation of Business Rules, 1961.
[23] MeitY, India's Trillion Dollar Opportunity, (February 2019), available at: https://www.meity.gov.in/writereaddata/files/india_trillion-dollar_digital_opportunity.pdf

Q14. What additional measures should be adopted to combat piracy and ensure content security through copyright protection in the broadcasting sector? How can the technology driven solutions be developed and deployed to prevent unauthorised distribution and detection of the source of original content. Provide your comments with detailed explanations.

IAMAI Recommendation

The following strategies are suggested to combat piracy and ensure content security:

1. Maintain an "Infringing Websites and Mobile Applications list for administrative takedown and enforcement action against violation of copyright;
2. Develop model enforcement codes / standard operating procedures to address piracy risks across different broadcast platforms and services, and disseminate to law enforcement agencies.
3. Undertake initiatives for combating piracy and provide broadcast-specific deterrent measures in the reforms to the Cable Television Networks (Regulation) Act, 1995;
4. Support the review and updating process of the National IPR Policy, particularly with a view to identify modernisation requirements for the IP regime to keep pace with technological changes;
5. Constitute an inter-ministerial committee under the Chairmanship of Secretary, DPIIT which includes secretaries of MIB, DOT and MEITY to formulate policy actions to strengthen enforcement mechanisms both at the federal and state levels to combat piracy. Due to lack of coordination amongst policy makers and enforcement agencies there is increased incidence of piracy impacting film, TV and OTT segments impacting the lives and livelihoods of the creative economy.
6. Support research on technological standards for encryption and reliable communication in collaboration with the BIS and other relevant standard-setting bodies.

Q15. What policy and regulatory provisions would be required in the policy to enable and facilitate growth of digital terrestrial broadcasting in India. Stakeholders are requested to provide strategies for spectrum utilization, standards for terrestrial broadcasting, support required from the Government, timelines for implementation, changes to be brought in the current ecosystem and the international best practices. Please provide your comments with detailed justification and proper reasoning.

No comments

Q16. How the strategies with respect to audience measurement and rating system in National Broadcasting Policy can ensure, address and encourage:
i. Establishment of a transparent, credible, and technologically equipped television audience measurement system that accurately reflects viewer preferences and behaviour
ii. Expansion of the sample size to adequately represent the diverse landscape of television viewership, considering the anticipated growth in TV households

iii. **Integration of data from non-linear sources from digital media to cover cross-platform content consumption habits**

iv. **Establishing a policy framework for conducting radio audience measurement in India**

v. **Encouraging multiple agencies to ensure healthy competition and enhancing service quality of measurement and methodologies.**

IAMAI Recommendation

It is important to highlight that, TRPs are primarily applicable for television networks and do not apply to OTT platforms, which use different technology and operate in a fundamentally different manner. As such the relevance of the TRP as applicable to television has no impact on the emergence of the OTT platforms.

Q17. What other strategies should be adopted in the policy document for ensuring a robust grievance redressal mechanism to address and resolve complaints with respect to content as well as services effectively? Provide your comments with proper explanation.

The current grievance redressal mechanism for OCCP works well and there is no need for a policy/regulatory overhaul.

The introduction of the self-regulation mechanism for Digital Media platforms has resulted in the efficient and effective resolution of consumer grievances. As a consequence, a significant number of cases are now being resolved at level I of the Self-Regulation Stage, without the need for any further escalations. This has also been acknowledged by the MIB, in its Press Release issued in April 2023, wherein it has been stated that the self-regulatory mechanism is 'going quite well' and very few complaints were received at the ministry level.[24]

IAMAI Recommendation

In view of the self-sufficient existing mechanism to regulate Digital Media platforms, there is no requirement to bring them under the contours of 'broadcasting system'. The robust self-regulatory mechanism governing OTT service providers, and overseen by the MIB, has not only been effective, but also efficient in addressing and redressing grievances, ensuring optimal and reasonable compliance, and creating an environment of voluntary superintendence. The benefits and advantages of self-regulation are now well known and recorded not only in India but the world over. It leads to increased voluntary compliance, increased transparency, increased consumer confidence in self-regulated companies, reduces scope for jurisdictional overlaps or clashes, etc.

The self-regulatory approach for Online Curated Content Providers (OCCPs) under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 is functioning well and there is no evidence of market or regulatory failure that requires added policy emphasis.

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[24] https://pib.gov.in/PressReleasePage.aspx?PRID=1916218

An impact assessment study on implementation of the Rules conducted in 2023 found that the self-regulatory mechanism was working well.[25]

The government is also satisfied with the efficacy of the mechanism. In February 2023, Union Minister, MIB said that the Ministry received and addressed all 265 consumer grievances against OCCPs since the IT Rules were implemented.[26] MIB Secretary and[27] former MIB Joint Secretary have also echoed the same view and added that the mechanism has led to a reduction in FIRs against content and its creators.[28]

Q18. What role the broadcasting sector should play to fulfil social and environmental responsibilities? Provide in detail the key focus areas and the strategies the sector should consider. Also provide strategies on the following specific issues:
  i. To empower Person with Disabilities (PwDs) to access the information and entertainment programmes
 ii. To encourage gender equality w.r.t. the participation and safety of the women workforce
iii. To raise awareness about the issues of marginalized tribal communities, minorities and LGBTs
 iv. To adopt green broadcasting practices

The OCCPs believe that accessibility is just as important as aesthetics, speed and stability. Thus, in order to make their services more accessible, certain best practices like providing subtitles for deaf and hard of hearing (SDH) / closed captions (CC) and / or audio descriptions (AD) for users who are deaf and hard of hearing and / or blind or visually impaired respectively are being followed by certain OCCPs. However, these may vary from publisher to publisher and content to content based on their respective feasibility.

It is noteworthy that certain audio-visual content is licensed to a platform by third-party rights-owners / licensors. Pursuant to the relevant licensing agreements executed between the platforms and such third parties, the inclusion of appropriate accessibility features in relation to third-party content available on such platforms is contingent upon the concerned third-party licensors providing necessary technical support in enabling accessibility features, such as closed captioning, AD, etc.

Currently, several thousands of local titles are available on various OCCPs which contain subtitles for deaf and hard of hearing and/or audio descriptions. In 2021, the Government of India notified the IT Rules 2021, which accounted for the rapidly evolving industry and considered the unique needs of OCCPs. The said rules provide that every OCCP, shall to the extent feasible, take

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[25] https://www.iamai.in/sites/default/files/research/IT%20RULES%2C%202021%20-%20Part%20II_compressed.pdf
[26] https://www.exchange4media.com/media-others-news/mib-took-care-of-265-ott-grievances-under-digital-media-code-anurag-thakur-125240.html
[27] https://12ft.io/proxy?q=https%3A%2F%2Feconomictimes.indiatimes.com%2Findustry%2Fmedia%2Fentertainment%2Fmib-advises-ott-platforms-to-exercise-self-restraint-amidst-growing-concerns-about-vulgar-content%2Farticleshow%2F99520949.cms%3Ffrom%3Dmdr
[28] https://bestmediainfo.com/2023/05/drop-in-firs-against-ott-content-due-to-selfregulation-mechanism-joint-secy-vikram-sahay

reasonable efforts to improve accessibility of online curated content transmitted by it to persons with disabilities through implementation of appropriate access services. Accordingly, the OCCPs are already committed to continuously improving their accessibility features.

Q19. Keeping in mind the immense role of broadcasting during disasters, how can the latest technologies be effectively utilized to provide disaster alerts and timely updates on television/mobile/radio during disasters? Elaborate with proper justifications.

No comments

Q20. Stakeholders may provide their comments with full details (measures/ strategies) and justification on any other subject matter which may be considered to be incorporated as the inputs for the National Broadcasting Policy.

The NBP should level down on existing regulation to reduce the burden on heavily regulated activities like TV distribution in line with 'Minimum Government' 'Maximum Governance'.

DPOs are an essential for broadcasting value chain as they provide carriage services, unlike OTTs which do not engage in carriage services and rely on telecom infrastructure for the same. This calls for differential treatment for both. We submit that the TRAI should instead look at deregulation of the broadcasting sector including aspects like promoting pricing forbearance for DPOs and level down on heavily regulated activities.

Policy interventions have progressively liberalized regulatory frameworks in the interest of Ease of Doing Business. For example, the National Digital Communications Policy 2018 committed to "*remove regulatory barriers and reduce regulatory burden that hampers investments, innovation and consumer interest...".*[29]

Today, DPO industry is reeling under excess regulation & complex as well as disbalanced regulatory framework, necessitating regulatory forbearance to restore the fundamentals of the industry and enable long term viability, sustainability and competitiveness. A mere patchwork solution won't suffice to avert future disruptions.

Presently, low-income households are finding traditional linear broadcast services increasingly costly, prompting a potential shift towards DD Free Dish. This trend underscores the pressing need for a comprehensive overhaul of the regulatory framework. Hence, it is imperative for market forces to be given room to operate.

We urge TRAI to introduce forbearance in the Broadcasting Industry to revamp this sector. Most countries (Australia, Singapore, China, South Korea, Hong Kong, New Zealand, Thailand, etc.)

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[29] 8, Preamble to the National Digital Communications Policy 2018, available at:
https://dot.gov.in/sites/default/files/2018_10_29%20NDCP%202018_0.pdf

have chosen to adopt a light touch regulatory approach to tariff regulations of channels and related market practices such as bundling unlike India.

Accordingly. we submit that the TRAI should recommend deregulation of both carriage and content aspects as principles in the NBP. The TRAI should also recommend periodic market assessments and review existing regulations on channel pricing and packaging.